



PATENT
P57046

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

WON-KYU BANG *et al.*

Serial No.: 10/820,696

Examiner: BROUSSARD, COREY M

Filed: 9 April 2004

Art Unit: 2835

For: DISPLAY APPARATUS HAVING IMPROVED HEAT DISSIPATION
CAPABILITIES

**REQUEST FOR REFUND AND
PETITION UNDER 37 C.F.R. §1.181**

Mail Stop: Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

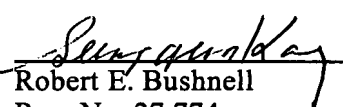
Pursuant to 37 CFR §1.26(a), Applicant respectfully requests refund of monies paid in excess
due to the circumstances listed herein:

Folio: P57046
Date: 4/25/07
I.D.: REB/ML/fw

**CERTIFICATE OF
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I hereby certify that, on 25 April 2007, this
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Total 6 sheets

For 
Robert E. Bushnell
Reg. No. 27,774

STATEMENT OF FACTS

1. On 16 October 2006, a Final Office action (Paper No. 20061011) was mailed setting a shortened statutory period for reply to three months and extendable up to 6 months from the mailing date (i.e., April 16, 2007;
2. On 8 January 2007, Applicant timely filed an Amendment After Final in reply to the final Office action (Paper No. 20061011) dated 16 October 2006;
3. On 6 April 2007, in absence of any communications from the Patent Office, Applicant's undersigned attorney had a telephone discussion with the Examiner where the Examiner promised the withdraw of the finality of Paper No. 20061011 and the issuance of a new, non-final office action to restart the period for reply, but the Examiner refused to put such a promises into writing;
4. On 6 April 2007, subsequently to the telephone discussion, Applicant submitted the Letter to the Office, confirming the substance of the interview with the Examiner;
5. On 16 April 2007, on the day of the expiration of the non-extendable statutory period, in absence of any communications from the Examiner, Applicant tried again to telephone the Examiner at 571-272-2799 several times but found that the telephone number was no longer assigned to an Examiner. As a result, Applicant

timely filed a Notice of Appeal and its fee pursuant to 37 CFR §41.20(b)(1), together with a Petition for a three month extension of time and its requisite fee pursuant to 37 CFR §1.17(a)(3), in an aggregate amount of \$1,520.00; and

6. On 19 April 2007, a new non-final Office action (Paper No. 20070221) was mailed and the Examiner stated that the under further consideration the allowability of claims 21, 23 and 24 was vacated and the claims are rejected over new art, and that the finality of the previous office action was withdrawn.

REMARKS

The *Manual of Patent Examining Procedure* §714.13 states:

“Any amendment timely filed after final rejection **should be immediately considered** to determine whether it places the application in condition for allowance or in better form for appeal. An examiner is expected to turn in a response to an amendment after final rejection within 10 calendar days from the time the amendment is received by the examiner. A reply to an amendment after final rejection should be mailed within 30 days of the date the amendment is received by the Office.” (Emphasis supplied).

Moreover, considering Applicant’s Response After Final to be a request for reconsideration without claim amendments, the Examiner should have submitted his reply within ten calendar days from the time the amendment is received by the Examiner. This is to say, Applicant should not have to file a Notice of Appeal with a three-month extension of time.

Here, more than three months passed since Applicant filed an amendment in response to Paper No. 2061011 was filed and Applicant never received a reply thereto. In fact, Applicant never received any written assurances from the Patent Office until after the statutory period had expired on April 16, 2007. Furthermore, on the day of the expiration of the statutory period, and again on April 25, 2007, the Examiner’s telephone number 571-272-2799 stated “you have reached an unassigned number at the U.S. Patent & Trademark Office”. Because of this, Applicant reasonably had no choice but to file the Notice of Appeal and the accompanying three month extension of time fee totaling \$1,520.00.

However, since a new, non-final Office action was mailed on April 19 and received on April 20, 2007 and after the expiry of the statutory period on April 16, these fees of \$1,520.00 are not needed and are thus excess. Applicant therefore requests the refund thereof.

Applicant submits that this is extremely unfair to Applicant in that, Applicant was forced to endure the financial burden in the amount of \$500.00 for filing a Notice of Appeal and the amount of \$1,020.00 for a three-month extension of time, due to the Examiner's failure to provide Applicant a reply to a response to a final rejection in a timely manner in accordance with the guidance set forth in the *Manual of Patent Examining Procedure* or a written assurance that Applicant's patent application will not go abandoned.

Applicant therefore requests that the amount of fee (\$500.00) paid by mistake under 37 CFR §41.20(b)(1), and the fee for a three-month extension of time (\$1,020.00) paid by mistake under 37 CFR §1.17(a)(3), be refunded to Applicant. Applicant respectfully requests such amount be deposited to Deposit Account No. 02-4943 of Applicant's undersigned attorney pursuant to 37 CFR §1.26(a) and (b).

RELIEF REQUESTED

Accordingly, Applicant respectfully requests the Commissioner to:

- A. Refund Applicant for the difference between a three-month extension of time and a one-month extension of time, that is, \$1,520.00, and to deposit such amount in Deposit Account No. 02-4943 of Applicant's undersigned attorney ; and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,



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